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§ 231.1

TITLE 6 ENVIRONMENTAL CONSERVATION

PART 231

MAJOR FACILITIES

(Statutory authority: Environmental Conservation Law, §§ 2-0301, 19-0301, 19-0303)

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Historical Note

Part (§§ 231.1-231.13) renum. Part 225, Title 6, filed Sept. 1971; new (§§ 231.1-231.9) filed July 24, 1979 eff. 30 days after filing.

Section 231.1 Applicability. Major facilities subject to this Part are facilities comprised of new emission sources or modifications for which permits to construct are issued subsequent to August 7, 1977, pursuant to Part 201 of this Subchapter, and for which the cumulative permissible emissions for particulates, sulfur dioxide, carbon monoxide, nitrogen oxides or volatile organic compounds (except methane, ethane, 1,1,1 trichloroethane, trichlorotrifluoroethane, or methylene chloride), considered independently, exceed 50 tons per year, 1000 pounds per day or 100 pounds per hour, whichever is most restrictive.

Historical Note

Sec. renum. 225.1, Title 6, filed Sept. 1971; new filed July 24, 1979 eff. 30 days after filing.

231.2 Prohibition. No person shall initiate construction of new emission sources or modifications at a major facility, which will result in an increase in emissions, until the applicable provisions of this Part have been met and a permit or permits to construct have been issued in accordance with Part 201 of this Subchapter.

Historical Note

Sec. renum. 225.2, Title 6, filed Sept. 1971; new filed July 24, 1979 eff. 30 days after filing.

231.3 Best available control technology (BACT) and lowest achievable emission rate (LAER). (a) A source owner subject to this Part shall apply best available control technology on a contaminant specific basis to any new emission source or modification at a major facility if the permissible emission rate for particulates, sulfur dioxide, carbon monoxide, nitrogen oxides or volatile organic compounds from such new source or modification is equal to or exceeds 50 tons per year, 1000 pounds per day or 100 pounds per hour, whichever is more restrictive, and:

(1) the impact from such sources or modifications on any nonattainment area* for particulates, sulfur dioxide, carbon monoxide or nitrogen oxide does not cause an increase in ambient concentrations in the nonattainment area exceeding the amounts shown in section 231.10 (b) of this Part; or

(2) the source emits volatile organic compounds in excess of 50 tons per year, 1000 pounds per day or 100 pounds per hour, and is in an attainment area for ozone, but not significantly impacting on an ozone nonattainment area as determined by procedures established by the commissioner.

*See Part 200 of this Subchapter for definition of nonattainment area and for definitions of other terms used in this Part.

(b) A source owner subject to this Part shall apply lowest achievable emission rate on a contaminant specific basis to any new emission source or modification to be located at a major facility if the permissible emission rate of particulates, sulfur dioxide, carbon monoxide, nitrogen oxides or volatile organic compounds from such new source or modification is equal to or more than 50 tons per year, 1000 pounds per day or 100 pounds per hour, whichever is more restrictive, and:

(1) the source emits particulates, sulfur dioxide, carbon monoxide, or nitrogen oxides in excess of the above amounts and is in a nonattainment area for the contaminant emitted, or causes an increase in ambient concentration in any nonattainment area which exceeds any of the amounts for these contaminants shown in section 231.10(b) of this Part; or

(2) the source emits volatile organic compounds in excess of the above rates, and is in a nonattainment area for ozone or significantly impacts on an ozone nonattainment area as determined by procedures established by the commissioner.

(c) The 100 pounds per hour or 1000 pounds per day permissible emission rate shall apply to a contaminant for which a prevention of significant deterioration increment (section 231.10(a) of this Part) or national ambient air quality standard, for a period less than 24 hours or for a period of 24 hours, as appropriate, has been established.

(d) The source owner shall submit information, at the time he applies for a permit to construct, to establish that best available control technology or lowest achievable emission rate, whichever is applicable, will be applied.

Historical Note

Sec. renum. 228.3, Title 9, filed Sept. 1971; new filed July 24, 1979; amd. filed May 22, 1980 eff. 30 days after filing.

231.4 Increment allocation. The applicable ambient air quality increments set forth in section 231.10 (a) of this Part shall be allocated in accordance with procedures, established by the commissioner, which provide opportunity for local government participation. Impact of sources on applicable increments shall be evaluated in accordance with section 231.5 of this Part.

Historical Note

Sec. renum. 228.4, Title 9, filed Sept. 1971; new filed July 24, 1979 eff. 30 days after filing.

231.5 Air quality impact evaluation. (a) A source owner subject to this Part shall submit to the commissioner an air quality impact evaluation report for any major facility at such time as an application is made for a permit to construct for a new emission source or modification at the facility which would cause the cumulative permissible emissions of particulates, sulfur dioxide, carbon monoxide, nitrogen oxides or volatile organic compounds from the facility to exceed 50 tons per year, 1000 pounds per day or 100 pounds per hour, whichever is most restrictive. An air quality impact evaluation report shall also be required at such time after the previous air quality impact evaluation as an application is made for a permit to construct for a new emission source or modification at the facility which would cause the increased cumulative permissible emissions of particulates, sulfur dioxide, carbon monoxide, nitrogen oxides or volatile organic compounds from the facility, since the last report, to equal or exceed any of the above rates. The above hourly and daily emission rates shall apply to a contaminant for which a prevention of significant deterioration increment (section 231.10 (a) of this Part) or ambient air quality standard for a period less than 24 hours or for a period of 24 hours, as appropriate, has been established.

(b) The report shall demonstrate that emissions from the major facility will not cause violations of any ambient air quality standard for particulates, sulfur dioxide, carbon monoxide or nitrogen oxides, and/or will not significantly contribute to a violation of any applicable ambient air quality standard in a nonattainment area.

A facility will be considered to significantly contribute to a violation of any ambient air quality standard for the above air contaminants if the increase in the cumulative emissions from the facility causes any increase in ambient concentrations in the nonattainment area for any of the above air contaminants in excess of any of the amounts shown in section 231.10 (b) of this Part. If a facility is located in a nonattainment area and will significantly contribute to such a violation, the report must show that emission reductions from existing sources will be achieved in accordance with section 231.6(a) of this Part. Facilities located outside a nonattainment area which would cause any increase in ambient concentrations in the nonattainment area in excess of the amounts shown in section 231.10(b) need only achieve emission reductions such that increases in the nonattainment area will not exceed the amounts shown in section 231.10(b).

(c) The report shall demonstrate that emissions will not cause or contribute to ambient concentrations exceeding the sum of the prevention of significant deterioration (PSD) increment for the specified air contaminants (section 231.10(a) of this Part) and the ambient concentration reflecting the actual ambient air quality of such air contaminant existing on August 7, 1977, minus any contributions to the ambient concentration from any emission sources at a major facility subject to part 52 of title 40 of the Code of Federal Regulations for which permits to construct were issued between January 1, 1975 and August 7, 1977. Additionally, the report must show that increases in ambient concentrations will not exceed the amount of the increment available for allocation as set forth in section 231.4 of this Part.

(d) The source owner shall conduct the air quality impact evaluation and prepare his report in accordance with procedures acceptable to the commissioner. Facilities subject to this section locating within 100 kilometers (62 miles) of a federally designated class I area shall include in their impact analysis the effects on soils, visibility and vegetation. The evaluation shall exclude the effect of:

- (1) that portion of the height of any stack which exceeds good engineering practice; or
- (2) any other dispersion technique for any emission source for which a permit to construct was issued after December 31, 1970.

(e) The following emissions shall not be considered when calculating cumulative emissions to determine the necessity for an air quality impact evaluation:

- (1) temporary emissions (less than 3 years), e.g., pilot plant, mobile facility, construction; and
- (2) fugitive dust.

Historical Note

Sec. renum. 231.5, Title 9, filed Sept. 1971; new
filed July 24, 1979 eff. 30 days after filing.

231.6 Emission reductions from existing emission sources. (a) The commissioner shall not issue a permit to construct for any new emission source or modification at a major facility located in a nonattainment area, or attainment area significantly impacting on a nonattainment area, if the source owner cannot demonstrate, as required under section 231.5 of this Part, that emissions from such facility will not significantly contribute to a violation of any applicable ambient air quality standard for particulates, sulfur dioxide, carbon monoxide or nitrogen oxides, unless:

- (1) the source owner will reduce emissions of the same air contaminants on more than a one-for-one basis from existing emission sources at his facility which are in compliance, or secure such emission reductions at any other facility to obtain a net air quality benefit acceptable to the commissioner, and all major facilities of the

source owner (or by any entity controlling, controlled by or under common control with such person) located in the State are in compliance with applicable rules or are meeting all steps of any compliance schedules contained in any administrative orders or court decrees; or

(2) the increases in cumulative permissible emissions are consistent with any increases in emissions reserved for growth in accordance with the State implementation plan, and all major facilities of the source owner (or by any entity controlling, controlled by or under common control with such person) located in the State are in compliance with applicable rules or are meeting all steps of any compliance schedules contained in any administrative orders or court decrees.

(b) The commissioner shall not issue a permit to construct for any new emission source or modification emitting volatile organic compounds (VOC) at a major facility located in a nonattainment area for ozone where cumulative VOC emission increases allowed by permits to construct issued since August 7, 1977, or since the last emission reduction required under this section, exceed 50 tons per year, 1000 pounds per day or 100 pounds per hour, unless:

(1) the source owner will reduce emissions of volatile organic compounds on more than a one-for-one basis from existing emission sources at his facility which are in compliance, or secure such emission reductions at any other facility located in the same nonattainment area for ozone, and all major facilities of the source owner (or by any entity controlling, controlled by or under common control with such person) located in the State are in compliance with applicable rules or are meeting all steps of any compliance schedules contained in any administrative orders or court decrees; or

(2) the increases in cumulative permissible emissions are consistent with any increases in emissions reserved for growth in accordance with the State implementation plan, and all major facilities of the source owner (or by any entity controlling, controlled by or under common control with such person) located in the State are in compliance with applicable rules or are meeting all steps of any compliance schedules contained in any administrative or court decrees.

(c) Emission reductions required by this section shall exceed any increase in cumulative permissible emission rate. Emission reductions occurring only since August 7, 1977 may be used to offset increases.

Historical Note

Sec. renum. 255.6, Title 9, filed Sept. 1971; new filed July 24, 1979; amd. filed May 22, 1980 eff. 30 days after filing.

231.7 Ambient air quality monitoring. (a) A source owner required to submit an air quality impact evaluation report in accordance with section 231.5 of this Part shall include in such report an analysis of ambient air monitoring data for applicable air contaminants, except as exempted under subdivision (c) of this section. Ambient monitoring data shall be based on sampling conducted for one year immediately preceding submission of any application for a permit to construct involving a major facility. Ambient monitoring data collected over a shorter time period, or for a time period other than that immediately preceding submission of any application for a permit to construct, may be acceptable if such data is adequate for determining whether the major facility would cause or contribute to a violation of any applicable ambient air quality standard. The commissioner shall allow use of existing monitoring data when-ever appropriate.

(b) If the commissioner issues a permit to construct or certificate to operate for emission sources of a major facility, the source owner may be required to conduct ambient air quality monitoring and to submit periodic reports to the commissioner as a condition of the permit and/or certificate.

(c) An owner may be exempted from monitoring requirements if he demonstrates to the commissioner's satisfaction, using acceptable modelling techniques, that no ambient air quality standard will be exceeded.

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(d) Monitoring requirements will be determined by the commissioner on a case-by-case basis.

Historical Note

Sec. renum. 226.7, Title 6, filed Sept. 1971; new filed July 24, 1979 eff. 30 days after filing.

231.8 Public participation. Local government and public participation shall be in accordance with procedures established in Part 621 of this Title (Uniform Procedures). Additionally, periodic increment use hearings will be conducted at locations within the State where there has been sufficient growth to warrant a public review of increment allocation.

Historical Note

Sec. renum. 226.8, Title 6, filed Sept. 1971; new filed July 24, 1979 eff. 30 days after filing.

231.9 Exemptions. (a) The owner of any temporary major facility for whose emissions sources permits to construct were previously issued may be exempted from the requirements of this Part, provided:

(1) the facility is located in an area other than a nonattainment area for any air contaminant emitted;

(2) emissions from the facility would not impact in amounts greater than those shown in section 231.10(b) of this Part on a nonattainment area, or any area in which a prevention of significant deterioration increment is exceeded; and

(3) the facility will be operated at the new location for not more than three years, during which time it will be in compliance with all applicable requirements of this Chapter.

(b) The commissioner may exempt a major facility from the requirements of this Part if the cumulative annual potential emissions from such facility of particulates, sulfur dioxide, carbon monoxide, nitrogen oxides or volatile organic compounds, considered independently, are less than 100 tons, provided the source owner demonstrates to the satisfaction of the commissioner that the emissions from the facility do not significantly affect air quality.

(c) The following major facilities are exempt from section 231.6 of this Part:

(1) resource recovery facilities burning refuse or refuse-derived fuel;

(2) any facility at which an existing emission source is required to convert to coal by reason of a Federal order.

(d) Major facilities in attainment areas not significantly impacting on a nonattainment area for the contaminant emitted are exempt from this Part until such time as the Administrator of the Environmental Protection Agency has delegated responsibility for source review related to prevention of significant deterioration of air quality to the New York State Department of Environmental Conservation.

Historical Note

Sec. amd. filed June 11, 1963; renum. 226.9, Title 6, filed Sept. 1971; new filed July 24, 1979; amd. filed May 22, 1980 eff. 30 days after filing.

231.10 Tables. (a) Table 1.

Prevention of Significant Deterioration (PSD) Increments

Air contaminant ambient air quality standard	Maximum Allowable Increment (micrograms per cubic meter)		
	Class I	Class II	Class III
Suspended particulates:			
Annual standard (geometric mean)	5	19	37
24-hour standard maximum	10	37	75
Sulfur dioxide:			
Annual standard (arithmetic mean)	2	20	40
24-hour standard (maximum)	5	91	182
3-hour standard (maximum)	25	512	700

As of the effective date of this Part, all areas of the State are class II. Increments for class I and class III areas are shown in event areas are reclassified in the future to either class I or class III.

(b) Table 2.

Significant Impacts for Non-Attainment Areas (NAA)

Air contaminant	Averaging time				
	Annual	24-hour	8-hour	3-hour	1-hour
Sulfur dioxide	1.0 $\mu\text{g}/\text{m}^3$	5.0 $\mu\text{g}/\text{m}^3$		25 $\mu\text{g}/\text{m}^3$	
Suspended particulates	1.0 $\mu\text{g}/\text{m}^3$	5.0 $\mu\text{g}/\text{m}^3$			
Nitrogen dioxide	1.0 $\mu\text{g}/\text{m}^3$				
Carbon monoxide			0.5 mg/m^3		3 mg/m^3

Historical Note

Sec. renum. 228.10, Title 9, filed Sept. 1971;
new filed July 24, 1979 eff. 30 days after filing.

231.11-231.13

Historical Note

Secs. renum. 228.11-228.13, Title 9, filed Sept. 1971.